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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,879	12/05/2003	Antonin A. Meibock	KORH-1-1001	9160

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,879

Applicant(s)

MEIBOCK, ANTONIN A.

Examiner

Jeffrey J. Restifo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 29-129 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 29-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received. .

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/17/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 5/17/04 has been considered by the examiner.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "520" and "530" appear in figure 7, but are not in the spec. "720" and "730" are in the spec and appear to be corresponding to be a typo. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 25, 56, and 112 are objected to because of the following informalities:

The recitation of the trademark "Kevlar" should be replaced with the generic term in the claims and be in all capitals, such as "KEVLAR" when it appears in the spec.

Further there are no claims 27 or 28, the applicant should add these claims or renumber appropriately.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 10-12, 38, 42, 43, 101-106, 127, and 129 are rejected under 35 U.S.C. 102(b) as being anticipated by Seltzer (US 5,462,295 A).

Seltzer discloses a skate boot comprising a base 19 with an upper face and lower face, and an upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18.

With respect to claims 2 and 10-12, Seltzer discloses inserts 82 to engage the skate attachment 66, and integral lugs 32, 40, each with attachment points 38, 46 parallel with the base for receiving skate attachments, as shown in figures 1-9.

With respect to method claims 101-106, 127, and 129, the method recited in these claims is inherently perform in the manufacturing of the skate of Seltzer et al. above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-12, 44-47, 50, are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1, 2, 42, 43, 101, and 102 above, and further in view of Baikie (US 3,934,892 A).

Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the skate attachment of Baikie in order to remove and replace the skate mechanism.

With respect to claims 6, 8, and 9, reversing the male female connection or using rivets is well known in the art of fasteners and it would have been obvious to one having ordinary skill in the art at the time of the invention to have used any well known fastener in order to secure the skate mechanism of Baikie to the skate boot and base of Seltzer.

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8. Claims 13-19, 48, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1 and 42 above, and further in view of Spier (US 3,958,291 A).

Seltzer does not disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with core recess 12 filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer with the foam core of Spier in order to provide cushioning and dampening to the user foot.

9. Claims 20-30, 51-59, 107-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1, 42, and 101, respectively, above, and further in view of Meibock et al. (US 6,168,172 B1).

Seltzer does not disclose multiple layers of various rigidity. Meibock et al. does disclose a skate boot 10 with a plurality of layers 44, 36, 20, 48, and hinge member 358, as shown in figures 1-14. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer with the layers and hinge of Meibock et al. in order to increase cushioning and rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 24-30, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the layers of the boot of Seltzer, as modified by Meibock et al., of materials such as

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Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

With respect to method claims 107-115, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

10. Claims 31-40, 60-69, and 116-125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Meibock et al., as applied to claims 30, 59, and 89 respectively above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 30-33, neither Seltzer nor Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 34-37, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

With respect to claims 39 and 40, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

With respect to method claims 116-125, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

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11. Claims 41, 70, and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1, 42, and 101 respectively above, and further in view of Olson et al. (US 5,171,033 A).

Seltzer does not disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

12. Claim 71-76, 80, 97, and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer (US 5,462,295 A) and in further view of Baikie (US 3,934,892 A).

Seltzer discloses an ice skate system comprising a boot 12, a base 19 with an upper face and lower face, and a contoured upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18. Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the skate attachment of Baikie in order to remove and replace the skate mechanism. Boot linings are well known in the art and it would have

been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Baikie with a boot lining in order to cushion the user's foot.

With respect to claim 72, Seltzer discloses inserts 82 to engage the skate attachment 66, and integral lugs 32, 40, each with attachment points 38, 46 parallel with the base for receiving skate attachments, as shown in figures 1-9.

13. Claims 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Baikie, as applied to claim 71 above, and further in view of Spier (US 3,958,291 A).

Neither Seltzer nor Baikie disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with core recess 12 filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer and Baikie with the foam core of Spier in order to provide cushioning and dampening to the user foot.

14. Claims 81-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer as modified by Baikie, as applied to claim 71 above, and further in view of Meibock et al. (US 6,168,172 B1).

Neither Seltzer nor Baikie disclose multiple layers of various rigidity. Meibock et al. does disclose a skate boot 10 with a plurality of layers 44, 36, 20, 48, and hinge member 358, as shown in figures 1-14. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer

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and Baikie with the layers and hinge of Meibock et al. in order to increase cushioning and rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 85-89, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the layers of the boot of Seltzer and Baikie, as modified by Meibock et al., of materials such as Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

15. Claims 90-96, 98, 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Baikie, and Meibock et al., as applied to claim 89 above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 90-92, none of Seltzer, Baikie, or Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer, Baikie, and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 93-96, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

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With respect to claims 98 and 99, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

16. Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Baikie, as applied to claim 71 above, and further in view of Olson et al. (US 5,171,033 A).

Neither Seltzer nor Baikie disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Baikie with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

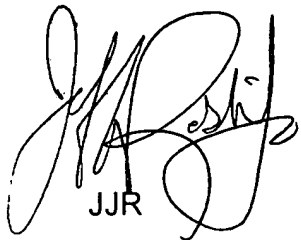
Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P. Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JJR

Jeffrey J. Restifo
Examiner
Art Unit 3618